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SUPREME COURT, U.S.

NO. 80-1462

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1980

IRIS M. MAITER, et al.,

Petitioners,

v.

CHICAGO BOARD OF EDUCATION, et al., and DISTRICT #21 PARENT EDUCATION COUNCIL, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

# BRIEF OF RESPONSENT RAQUEL GUERRERO

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IRIS M. MAITER, et al.,

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v.

CHICAGO BOARD OF EDUCATION,
et al., and DISTRICT #21
PARENT EDUCATION COUNCIL, et al.,

Respondents.

# BRIEF OF RESPONDENT RAQUEL GUERRERO IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

## STATEMENT OF THE CASE

This case involves the rights and powers of the Board of Education of the City of Chicago (hereafter "Board") and statutorily authorized local nominating committees in the nomination and initial appointment of persons to a principalship in the Chicago Public School system. Prior to 1970, the Board made the intitial appointment of persons to the position of principal solely on the basis of the score achieved on the eligibility examination, i.e., in rank order. In October of 1970, the Board adopted procedures which permit local school nominating committees to interview applicants for specific principalships and to recommend to the Board those individuals whom they believe to be best suited for appointment. R. C-211. After the recommendations are received from the local nominating committee, the Board appoints the person it deems most qualified. R. C-60. Appointments subsequent to October, 1970, pursuant to this procedure, have not been made in rank order. Five years

and 180 appointments after the Board changed its procedure (R. C-229-35), this action was filed by Petitioners seeking a declaratory judgment that Illinois statutes (1) mandated initial appointments to be made in rank order from eligibility lists and (2) prohibited the Board from obtaining the advice and recommendations of a local nominating committee.

State law requires that before a person may be appointed to a principalship, he or she must have passed an eligibility examination. Ill.Rev.Stat., ch. 122, §34-83. [1/] When a specific principalship position becomes open, Illinois law authorizes the formation of a local nominating committee, consisting of at least 60 per cent parents or guardians of children in the affected school, to "consider, interview and nominate" a person or persons to fill the position. Section 34-8.2. [2/] The committees' nomination is then sent to the General Superintendent. The specific appointment must be made "for merit only" (§34-84), and "only upon the recommendation of the General Superintendent of Schools or by a majority vote of the full membership of the Board...." Section 34-8

The trial court held that rank order appointments are not required and the Board may obtain the recommendations of local nominating committees. [3/] The Petitioners appealed. The Illinois

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1/ All future citations to the Chicago Board of Education Act of the Illinois School Code, Ill.Rev.Stat., ch. 122, §34-1, et seq., shall be to section number only, i.e., §34-83.

2/ Section 34-8.2 was adopted October 1, 1977, subsequent to the decision of the trial court but prior to the decisions of the Illinois Appellate and Supreme Courts. As noted by the Illinois Supreme Court, §34-8.2 was introduced and adopted in response to this litigation. Pet. for Cert., pp. 10a-11a.

3/ The trial court also invalidated the then existing Board regulations governing the procedures and operation of local nominating committees and required rank order appointments until "a uniform system" for local nominating committees was established. The Board adopted new regulations on April 13, 1977. See, App. A. No questions have been raised concerning the procedures under these uniform regulations. The Illinois Supreme Court reversed the judgment of the Circuit Court "insofar as it required appointments in rank order 'until a uniform system of community input is established'." Pet for Cert., p. 15a.

Supreme Court ultimately held:

> that the requirement under the School Code that principals be appointed "for merit only" does not mandate that the board of education appoint persons to serve as principals solely according to the rank order of appearance on the eligibility list prepared by the board of examiners. The legislative scheme evinces an intent that the Board of education have great discretion in such appointments. (Pet. for Cert., p. 15a.) 4/

REASONS FOR DENYING THE WRIT

I

THIS COURT LACKS JURISDICTION TO REVIEW THE JUDGMENT OF THE SUPREME COURT OF ILLINOIS

A. The Judgment Below Rests On Adequate State Grounds.

The issues presented to the Illinois Supreme Court pertained solely to the construction of Illinois statutes. The Illinois Supreme Court based its decision entirely on Illinois law. Pet. for Cert., pp. 1a-15a. The judgment thus rests on adequate state grounds and this Court does not have jurisdiction to review it. Board of Supervisors v. Allman, 423 U.S. 940 (1975); Wilson v. Loew's, Inc., 355 U.S. 597 (1958).

B. The Alleged Federal Questions Were Not Properly Presented Or Preserved In The State Court.

The alleged federal questions which Petitioners seek to have this Court review are (1) whether "the lower court's failure to remand this case to the trial court for resolution of [Petitioners' claim of alleged racial discrimination] has denied the Petitioners their right to equal protection and due process of law", (Pet. for Cert., p. 10), and (2) whether the ruling of the Illinois Supreme Court "denied Petitioners of a property interest without due process of law." Pet. for Cert., p. 13.

1. The first time the Petitioners raised the issue of remand for a hearing concerning alleged racial discrimination was in its Petition for Rehearing before the Illinois Supreme Court. Pet. for Cert., p. 11.

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4/ As a result of the enactment of §34-8.2, in the Illinois Supreme Court the Petitioners abandoned their argument that local nominating committees could not be convened and instead argued that the committees were required to base their nominations on rank order.

The trial court's judgment order was entered in open court after lengthy argument by counsel concerning the draft order and specifically found "that no genuine issue of fact exists to be litigated by the parties in this cause." R. C-700. The Petitioners filed a Notice of Appeal to the Appellate Court of Illinois from the adverse judgment. Illinois Supreme Court 303, (Ill.Rev.Stat., ch. 110A, §303(c)(2)), requires that the Notice of Appeal "shall specify...the relief sought from the reviewing court." Petitioners' Notice of Appeal did not request a remand to the trial court for a hearing on any alleged factual issues. See, App. B. Petitioners' briefs in both the Illinois Appellate and Supreme Courts did not request a remand for the determination of any allegedly unresolved factual issues. Illinois Supreme Court Rule 341(e)(7) (Ill.Rev.Stat., ch. 110A, §341(e)(7)) provides "Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing."

This Court does not have jurisdiction to review an alleged federal question that was neither raised nor decided in the state courts. Cardinale v. Louisiana, 394 U.S. 437 (1969). This factor is especially significant when the court below has failed to expressly pass upon the federal question. Under those circumstances, the Petitioners have the burden of showing that they properly raised the question because when "the highest state court has failed to pass upon a federal question, it will be assumed that the omission was due to want of proper presentation in the state courts, unless the aggrieved party in this Court can affirmatively show the contrary." Street v. New York, 394, U.S. 576, 582 (1969).

2. Rule 21.1(h) of this Court provides:

> If review of the judgment of a state court is sought, the statement of the case shall also specify the stage in the proceedings, both in the court of first instance and in the appellate court, at which the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed upon by the court; such pertinent quotation of specific portions of the record, or summary thereof, with specific reference to the places in the record where the matters appears (e.g., ruling on exception thereto, assignment of errors) as will

show that the federal question was timely and properly raised so as to give this Court jurisdiction to review the judgment on writ of certiorari.

The Petition for Writ of Certiorari contains no reference as to when or how the question of whether Petitioners have been deprived of a property interest without due process of law was raised in the state courts. The reason for such omission is that Petitioners never raised the question at any stage of the proceedings in the state courts, specifically including the petition for rehearing in the Supreme Court of Illinois. This Court, therefore, does not have jurisdiction to review the question. Fuller v. Oregon, 417 U.S. 40 (1974); Tacon v. Arizona, 410 U.S. 351 (1973).

II

THE FACTUAL ISSUES PETITIONERS CLAIM SHOULD BE REMANDED FOR TRIAL HAVE BEEN RENDERED MOOT BY THE ENACTMENT OF NEW STATUTES AND THE ADOPTION OF NEW REGULATIONS

The Petitioners are seeking a remand for hearing on their alleged claim of racial discrimination by the nominating committees. In their Complaint, Petitioners alleged that the Board's rules and regulations, then in effect, governing local nominating committees were unduly vague with no uniform standards of operation. Petitioners further claimed the local nominating committees made their nominations on the basis of race. 5/

5/ The allegations of racial discrimination by local nominating committees are vague and frivolous. Petitioners allege no specific instance of racial discrimination. Petitioners claim racial discrimination solely because in some instances Black applicants were appointed as principals of schools where the majority of the students were Black and white applicants were appointed to white schools. Pet. for Cert., p. 8. Petitioners ignore the substantial number of instances where this did not happen. Thus, the Petitioners totally ignore all appointments of new principals from the eligibility list between March 12, 1972 and August 28, 1974. During this period, new principals were appointed to 37 Black schools after being nominated by a local nominating committee. Twenty six out of the 37 appointees were not Black. R. C-231-33, lines 86-139. At the time of each of these appointments, there were still unappointed Blacks on the eligibility list. R. C-233. The affidavit of Penny Kajiwara, Chairperson of the Joan Arai Middle School Nominating Committee detailed the process of that nominating committee which resulted in the nomination and ultimate appointment of a Black to be principal although it is not a Black school. R. C-302-3.

On April 13, 1977, subsequent to the decision of the trial court, the Board adopted new regulations and guidelines governing local nominating committees. These uniform procedures specify that "The district superintendent is to inform the council of the procedures adopted by the Board of Education to comply with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 related to race and sex which may relate to the selection of a principal for that particular school." App. A, ¶B1. Thus, in meeting its obligations under federal law, the Board has reserved its right to designate the race or sex of the person to be nominated and will advise the local nominating committee of any such decision before the committee begins its selection process.

The state statute specifically authorizing local nominating committees, §34-8.2, became effective October 1, 1977, and provides:

> The recommendations of the local nominating committee shall not discriminate against any person based upon race, color, creed, national ancestry, sex, ethnic heritage or religious beliefs. Section 34-8.2B.

The relief requested by the Petitioners pertained only to the future conduct of the Board and local nominating committees. Petitioners did not request any relief regarding past appointments. By the enactment and adoption of §34-8.2 and the uniform guidelines, Petitioners have in effect received all the relief requested on this issue. The claim of racial discrimination is thus moot. Significantly, the Petitioners have alleged no instances of racial discrimination in the appointment of principals subsequent to April 13, 1977.

III

PETITIONERS HAVE NOT BEEN DEPRIVED OF ANY LEGALLY COGNIZABLE PROPERTY INTEREST AND, HENCE, HAVE NOT BEEN DENIED DUE PROCESS

Petitioners claim they were denied a property interest without due process of law. The property interest claimed is an entitlement to be appointed to a principalship because they "had

every reason...to expect appointment according to long established procedures." Pet. for Cert., p. 16. In order to establish this claim Petitioners must show (1) they have vested rights in positions they do not hold, and (2) vested rights in the appointment procedure. Petitioners fail to meet either aspect.

Property interests are not created by the Constitution. They are created and their dimensions are defined by state law. Board of Regents v. Ross, 408 U.S. 564, 577 (1972). Applying well established Illinois law, the Illinois Supreme Court held that there is no "property right inherent in holding a public office; that is, persons whose names appear on the eligibility list have no vested right in a principalship....(A) Candidate possessing a valid certificate from the Board of Examiners does not have an entitlement to a principalship", 6/ (Pet. for Cert., p. 14 a) and "there exists no vested right in any particular mode of procedure." Pet. for Cert., p. 13a.

Furthermore, the Petitioners, in their Complaint, alleged no vested rights and, by their choice of remedy, sought only prospective relief. If Petitioners had claimed vested rights to specific

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6/ Placement on eligibility lists creates no vested rights where such lists are subject to expiration. People ex rel. Lynch v. City of Chicago, 271 Ill.App. 360 (1933); People ex rel. Walsh v. City of Chicago, 226 Ill.App. 409 (1922). Principals' eligibility certificates expire after six years and in this case were extended by order of the lower court. R. C-237. See also, Webster v. Redmond, 599 F.2d 793 (7th Cir., 1979).

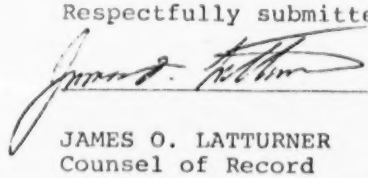
7/ There is no vested right unless there exists more than a mere expectation based upon an anticipated continuation of present laws. Goldblatt v. City of Chicago, 30 Ill.App.2d 211, 174 N.E.2d 222 (1st Dist., 1961). No person has a vested right in any rule or law or mode of procedure entitling him to insist that it remain unchanged for his benefit. Winter v. Bennett, 352 Ill. 441 (1933); Maki v. Frelk, 40 Ill.2d 193, 239 N.E.2d 445 (1968); Phillips Petroleum Co. v. City of Park Ridge, 16 Ill.App.2d 555, 149 N.E.2d 344, 347 (1st Dist., 1958). Procedures used in the appointment of principals may undergo modification and change. People ex rel. Cook v. Board of Education of the City of Chicago, 295 Ill.App. 41, 14 N.E.2d 520 (1st Dist., 1938).

appointments, they would have been required to join the individuals allegedly wrongfully appointed as necessary party defendants. See, Kadon v. Board of Fire and Police Commissioners, 45 Ill.App.2d 425, 195 N.E.2d 751 (1st Dist., 1964). They did not.

## CONCLUSION

For the reasons stated above, Respondent Raquel Guerrero respectfully requests this Court to deny the Petition for a Writ of Certiorari.

Respectfully submitted,



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# UNIFORM PROCEDURES FOR THE PARTICIPATION OF PRINCIPAL NOMINATING COMMITTEES IN THE TRANSFER OF PRINCIPALS AND THE APPOINTMENT OF PRINCIPALS FROM PRINCIPAL'S ELIGIBILITY LISTS

(Revised April 13, 1977)

RECOMMENDATION: Adopt uniform procedures for Principal Nominating Committees and procedures for the transfer of principals and the appointment of new principals from the principals' eligibility lists. (Words changed or added are underlined. Words deleted are crossed out.)

SUPPORTIVE DATA: Original guidelines and procedures were adopted in Board Report 71-15-1, January 21, 1971. These guidelines were revised in Board Report 73-41-1 on January 10, 1973 and amended in Board Report 73-1278-1 on November 14, 1973.

A Circuit Court ruling of December 20, 1976* decreed that, if the Chicago Board of Education desired to provide the opportunity for community input in the nomination of school principals, a uniform system of community input should be established.

DESCRIPTION:

~~A. Guidelines for Impaneling and Charging the Nominating Committee for local school councils.~~

A. Principal Nominating Committees, formed pursuant to the procedures stated in this Board Report, can advise and assist the General Superintendent, through appropriate staff, in recommending candidates to the Board for appointment as principals.

1. The School Code, Section 34-84, requires the appointment of eligible persons to the position of principal be made on the basis of merit.

2. The School Code, Section 34-8, requires the General Superintendent to recommend and the Board to appoint persons to the position of principal.

3. Principal nominating committees can provide community input to the principal selection process.

B. Procedures for the Participation of Local Councils in the Nomination of Principals:

1. The district superintendent shall meet with the local school council within ten days after the announcement in the personnel bulletin of a principalship vacancy in that school to notify the council that a nominating committee is to be formed. The district superintendent is to inform the council of the procedures adopted by the Board of Education to comply with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 related to race and sex which may relate to the selection of a principal for that particular school.

*Subject to appeals taken to Appellate Court of Illinois.

APPENDIX A

2. The Committee to nominate a principal (when a true* vacancy exists) must have representatives of the local PTA and/or the local Concerned Parents Organization, if such organizations exist in a school, among its voting members. (Board Report 71-623-2, amended July 28, 1971.)

3. Parents impaneled to serve on the Committee must reflect the racial and ethnic diversity of the student body.

4. The Chairperson of the nominating Committee must be a parent of a child in the school. The local school council shall determine the Chairperson. The council must impanel at least five members to serve on this Committee and its membership must reflect the same proportion of parents as the council at large, the minimum being 60%.

5. ~~Principal-Nominating-Committees-shall-be-democratically-constituted.~~ Meetings of the local school council to select a principal nominating committee shall be open to the public. Community input must be sought. The names of the persons selected to serve on the principal nominating committee must be made known to all the parents of the school.

6. ~~The-district-superintendent-shall,-within-a-week-after-the-vacancy-is-advertised,-contact-the-council-president-and-apprise-this-person-of-the-responsibility-of-the-council-for-the-establishment-of-a-Principalship-Nominating-Committee.-The-district-superintendent-shall-also-review-with-the-council-president-that-section-of-the-guidelines-relating-to-who-is-to-be-impaneled-to-serve-on-such-a-committee.~~

6. Within four school weeks, after a principalship vacancy is advertised, the district superintendent shall call an orientation meeting of the Principal Nominating Committee.

7. The district superintendent shall charge the Principal Nominating Committee with its responsibilities by doing the following:

   a. review the procedures with the committee as set forth in this report;

   b. discuss with the Committee factors to be considered as outlined in E-3; ~~curriculum-supervision-of-staff,-pupil-discipline,-community-involvement-and-other-areas-which-may-be-mutually-determined-to-be-important-for-that-particular-schools.~~

*A true vacancy is one which occurs as a result of transfer, retirement, resignation or death or other similar occurrences resulting in the permanent absence of the incumbent principal.

c. apprise the Committee that the district superintendent or his designee must be present at each session as a resource person and for the purpose of monitoring the procedures ~~and guidelines~~;

d. share with the Committee the names, qualifications and employment history and the letter of application of candidates who have applied for the position;

e. assist the Committee in the duplication of the pertinent materials ~~and grids which they may desire~~;

f. apprise the Committee that it must make its nominations within three months after the date of vacancy was advertised. If it does not make its nominations within the three-month period the General Superintendent will recommend to the Board of Education ~~will proceed without further~~ delay the appointment of a principal to the position. The three-month period shall not include the summer months July and August.

8. In the event that a local school council does not exist, the district superintendent will see that a local council is organize in accordance with adopted guidelines.

C. ~~The following Procedures will serve as guidelines when~~ for principals who are seeking transfer and candidates seeking appointment.

1. True principalship vacancies, together with the procedures adopted by the Board of Education to comply with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 related to race and sex which may relate to the selection of a principal for that particular school, will be announced, within two weeks of the occurrence of the vacancy, in personnel bulletins, in accordance with the established procedures.

2. Principals desiring to transfer from their present schools and eligible candidates seeking appointments will submit letters of application to the Assistant Superintendent of Personnel with carbon copies to the district superintendent in charge of the school to which transfer or appointment is desired.

3. All principals requesting transfer and eligible candidates seeking nomination will be interviewed by the nominating Committee. ~~The Committee will interview the applicants considered most promising.~~

4. ~~After appearing for an interview a candidate may not appear at any other interviews until the Board has officially appointed a candidate to the particular principalship vacancy~~

~~for which he was interviewed. However, if the Committee takes more than two weeks after names of candidates are available to the Committee to make a nomination, the candidate may be interviewed by another Committee.~~

D. Procedures when there are no principals seeking transfer or when a local school nominating committee has not submitted any nominations from among the applicants.

1. The district superintendent will provide six additional candidates from the eligibility list. These candidates will represent the broad range of candidates eligible for assignment.

2. ~~If more than one nominating Committee invites a given candidate to appear for an interview, the applicant must decide which invitation he will accept and so notify all the nominating Committees and also the Department of Personnel in writing.~~

2. The Principals' eligibility list will be maintained in the office of the General Superintendent of Schools. The Department of Personnel will make the appropriate source material available to ~~the Area Associate Superintendent and/or~~ the district superintendent. Such information will be made available by the district superintendent to the nominating Committee. If none of this group of six candidates should be nominated by a nominating Committee, an additional group of six names will be provided in the same manner prescribed in Item D-1, not to exceed a total of twelve candidates.

E. ~~Guidelines~~ Procedures for the Nominating Committee.

1. As the Principal Nominating Committee functions, Board of Education policies, procedures and practices, and the rules set forth in this document must be followed in all instances.

2. The District Superintendent shall furnish applicants for the position of principal with a written statement of procedures adopted by the Chicago Board of Education for the principal nomination process. A description of the characteristics of the school, student body and special programs shall be made available to the applicant.

3. The following factors are to be considered by principal nominating committees when evaluating applicants for the position of principal:

a. the procedures adopted by the Board of Education to comply with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 related to race and sex which may relate to the selection of a principal for that particular school.

b. degrees held, awards received, material published, and special or continued training in education or other fields;

c. employment history, including but not limited to past teaching and administrative positions held;

d. knowledge, experience, and attitude of the applicant concerning the school, student body, special programs, and the community;

e. special training or experience relevant to the particular needs of the school;

f. strengths or knowledge in major areas of responsibility such as curriculum, supervision of staff, pupil discipline;

4. After interviewing the applicants for the position of principal, considering all the material furnished to Principal Nominating Committee by the applicants, district superintendent, and school council, and evaluating the applicants in accordance with the above procedures, the Principal Nominating Committee is to furnish the district superintendent, in writing, the names of its nominees, but in no case shall this list be less than three, together with a statement of the basis for the committee's decision for each nomination and the committee's preference, if any, among those nominated.

5. The district superintendent shall review and consider the nominating committee's recommendations and, within five school days, forward to the Deputy Superintendent, Field Services, the recommendations of the committee and any additional recommendations the district superintendent may wish to make. The Deputy Superintendent, Field Services, shall review and consider the recommendations of the nominating committee, and within five school days, forward to the General Superintendent the recommendations of the nominating committee and the district superintendent, along with any additional recommendations the Deputy Superintendent, Field Services may wish to make. The General Superintendent shall review and consider the recommendations of the nominating committee, the district superintendent and the Deputy Superintendent, Field Services, and then make a recommendation to the Board of Education.

6. No applicant or candidate may be rejected on the basis of race, color, creed, sex, national origin, ancestry or age except where the procedures adopted by the Board of Education to comply with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 related to race and sex which may relate to the selection of a principal for that particular school.

7. The State law requires that the General Superintendent recommends and the Board of Education appoints a person to the position of principal of a particular school. Neither the Board of Education nor the General Superintendent shall abdicate their responsibility to select and appoint persons to be principals to any other group of persons including, but not limited to, the community nominating committees.

8. The names of persons selected as members of the Principal Nominating Committee shall be shared with the local school council and made available in the district office.

9. Interviews must be conducted in a Chicago Public School facility.

10. If the nominating Committee has not completed its task by the end of two months, the district superintendent shall inform the Committee in writing of the three-month time limit specified by the Principal Nominating Committee guidelines.

11. If the nominating Committee has not completed its task within the three-month period, the district superintendent will recommend a candidate or candidates to the Deputy Superintendent, Field Services, in order to initiate a nomination by staff within two weeks to the General Superintendent.

12. Nothing in these procedures is to preclude the Local School Council from notifying the district superintendent, in writing, that they wish to waive their opportunity to participate in the nominating process and request that a principal be assigned to the school on the recommendation of the district superintendent, Deputy Superintendent for Field Services, and the General Superintendent.

These guidelines and procedures will become effective upon adoption by the Board of Education of the City of Chicago.

FINANCIAL: No additional cost to the Board of Education.

Respectfully submitted,

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General Superintendent of Schools

Prepared and Approved - Staff Committee:

BESSIE F. LAWRENCE
Deputy Superintendent - Field Services

GUY D. BRUNETTI
Assistant Superintendent - Employee Relations

MARGARET M. HARRIGAN
District 7 Superintendent

SHIRLEY E. STACK
District 1 Superintendent

Noted:

ROBERT STICKLES
Controller

Approved As To Legal Form:

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GUY D. BRUNETTI
Assistant Superintendent - Employee Relation

MARGARET M. HARRIGAN
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JACK MITCHELL
District 21 Superintendent

SHIRLEY E. STACK
District 1 Superintendent

APPEAL TO THE APPELLATE COURT OF ILLINOIS - FIRST DISTRICT
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

IRIS M. MAITER, SYLVIA ASLLANI, JOSEPH M. BECHINA, RUTH GOLDRICH, ALMA M. HECK, JOHN JONES, BERNARD KARLIN, NORMAN KREMEN, WINIFRED M. SZPARA MAKOWSKI, DOROTHEA MODERHOCK, JUDITH L. BAKER, FREDERICK BARTH, ELEANOR BRAZIER, JAMES BERNERO, MARILYN BESSLER, FRED W. DELANEY, JUNE C. DUDECK, MARJORIE A. DWY, ELIZABETH A. EVAN, EDITH B. EDINGTON, SAMUEL L. DOLNICK, JAMES AHERN, SAMUEL ALTSHULER, JEANNETTE ANDERSON, LOUIS ASHER, JAMES BAILEY, SONJA BECVAR, JEWEL BEIFUSS, DOROTHY BERG, BRUCE BERNDT,

Plaintiffs-Appellees, Separate-Appellants and Cross-Appellants.

v.

No. 75 L 10943

CHICAGO BOARD OF EDUCATION AND DR. JAMES F. REDMOND, GENERAL SUPERINTENDENT OF SCHOOLS,

Defendants-Appellees, Separate-Appellees and Cross-Appellees.

v.

DISTRICT #21 PARENT EDUCATION COUNCIL, GWENDOLYN COSBY, IONA BELL, ET AL.,

Intervenors-Appellants, Separate-Appellees and Cross-Appellees.

v.

MIDWEST COMMUNITY COUNCIL, NANCY JEFFERSON; WILLIAM K. SULLIVAN SCHOOL PTA, FRANCES GARCIA; PILSEN NEIGHBORS COMMUNITY COUNCIL, RAQUEL GUERRERO; NORTHWEST COMMUNITY ORGANIZATION; LAKE VIEW SCHOOLS COALITION, NANCY RODINSKI; JOAN ARAI, MIDDLE SCHOOL PARENTS SCHOOL, LAURA GRACE, PENNY KAJIWARA,

Intervenors-Appellees, Separate-Appellees and Cross-Appellees.

NOTICE OF SEPARATE APPEAL AND CROSS-APPEAL

The plaintiffs-appellees, separate-appellants and cross-appellants IRIS M. MAITER, SYLVIA ASLLANI, JOSEPH M. BECHINA, RUTH GOLDRICH, ALMA M. HECK, JOHN JONES, BERNARD KARLIN, NORMAN KREMEN, WINIFRED M. SZPARA MAKOWSKI, DOROTHEA MODERHOCK, JUDITH L. BAKER,

FREDERICK BARTH, ELEANOR BRAZIER, JAMES BERNERO, MARILYN BESSLER, FRED W. DELANEY, JUNE C. DUDECK, MARJORIE A. DWY, ELIZABETH A. EVAN, EDITH B. EDINGTON, SAMUEL L. DOLNICK, JAMES AHERN, SAMUEL ALTSHULER, JEANNETTE ANDERSON, LOUIS ASHER, JAMES BAILEY, SONJA BECVAR, JEWEL BEIFUSS, DOROTHY BERG, BRUCE BERNDT hereby appeal as follows:

1. From the Order entered September 28, 1976 granting leave to the intervenors herein to intervene in this suit and pray that said Order be reversed in its entirety and that the intervenors herein be ordered dismissed as parties to this suit and that all documents and briefs filed on their behalf, including all documents filed in the Circuit Court as well as all documents filed in this cause, including notices of appeal and briefs, be ordered stricken.

2. From the Judgment Order entered December 20, 1976 and specifically that portion of the Order which provides as follows:

> "2. That rank order on the Principals' eligibility examination need not be used by the Board as the sole criteria of merit in the appointment of principals to individual schools, provided however, that until a uniform system of community input is established..."

and pray that the same be reversed in its entirety and that this Court direct the Lower Court to enter a Judgment Order providing as follows:

> A. That the rules and procedures establishing nominating committees of local school councils are in violation of the statutory authority conferred upon the Board of Education and in violation of the specific provisions of Section 34-84 relating to the appointment of principals; and that the rules, practices and procedures of the General Superintendent and the Board of Education in being governed by the recommendations of these local

school councils in making appointments to the position of principal are in violation of the statutes governing the selection and appointment of principals within the Chicago school district.

B. That Section 34-84 of the School Code of Illinois requires that the Board of Education of the City of Chicago make appointments to the position of principal in rank order from eligibility lists prepared by the Board of Examiners, first exhausting the prior 1970 eligibility list before proceeding with the subsequent 1974 eligibility list.

C. That the Court having found and declared the practices and procedures of the Chicago Board of Education as contained in Board Report 73-1278-1 to be in violation of the statutory authority conferred on the Board, it is ordered that all persons on the 1970 eligibility list who have been subjected to these illegal practices and procedures and who have been by-passed for appointment are entitled to appointment as principal and that the Board is hereby directed to appoint to the position of principal in rank order the persons remaining on the 1970 eligibility list for principal.

IRIS M. MAITER, SYLVIA ASLLANI, JOSEPH M. BECHINA, RUTH GOLDRICH, ALMA M. HECK, JOHN JONES, BERNARD KARLIN, NORMAN KREMEN, WINIFRED M. SZPARA MAKOWSKI, DOROTHEA MODERHOCK, JUDITH L. BAKER, FREDERICK BARTH, ELEANOR BRAZIER, JAMES BERNERO, MARILYN BESSLER, FRED W. DELANEY, JUNE C. DUDECK, MARJORIE A. DWY, ELIZABETH A. EVAN, EDITH B. EDINGTON, SAMUEL L. DOLNICK, JAMES AHERN, SAMUEL ALTSHULER, JEANNETTE ANDERSON, LOUIS ASHER, JAMES BAILEY, SONJA BECVAR, JEWEL BEIFUSS, DOROTHY BERG, BRUCE BERNDT

By: Ronald S. Cope

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NO. 80-1462

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1980

IRIS M. MAITER, et al.,

Petitioners,

v.

CHICAGO BOARD OF EDUCATION, et al., and DISTRICT #21 PARENT EDUCATION COUNCIL, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Respondent Raquel Guerrero moves for leave to proceed in forma pauperis pursuant to Supreme Court Rule 46.

The affidavit of the Respondent in support of this motion is attached hereto.

Respectfully submitted,

JAMES O. LATTURNER
Counsel of Record
Legal Assistance Foundation
of Chicago
Uptown Office
4753 North Broadway, Suite 1118
Chicago, Illinois 60640
(312) 769-1015

MARILYN F. JOHNSON

Attorneys for Respondent
Raquel Guerrero

NO. 80-1462

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1980

IRIS M. MAITER, et al.,
Petitioners,
v.
CHICAGO BOARD OF EDUCATION, et al., and DISTRICT #21 PARENT EDUCATION COUNCIL, et al.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

A F F I D A V I T

STATE OF ILLINOIS )
COUNTY OF C O O K ) SS:

I, RAQUEL GUERRERO, being first duly sworn, depose and say that I am a Respondent in the above-entitled case; that in support of my motion to proceed in this cause without being required to prepay fees, costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding or to give security therefor, that I believe I am entitled to redress.

I further swear that the responses which I have made to the questions and instructions below pertaining to my ability to pay the costs of prosecuting the appeal are true.

1. Are you presently employed?

Yes. Pilsen YMCA, 1922 S. Laflin, Chicago, Illinois, approximately $710.00 monthly.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interests, dividends, or other source?

No.

3. Do you own any cash or checking or savings account?

Checking Account of $25.00.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

No.

5. List the persons who are dependent upon you for support and state your relationship to those persons.

My six children; Estella, Cynthia, Ramiro, Leticia, Fred and Hortencie.

I understand that a false statement or answer to any questions in this Affidavit will subject me to penalties for perjury.

Raquel Guerrero
RAQUEL GUERRERO

Subscribed and sworn to
before me
March 23, 1981
Diane Stone
Notary Public

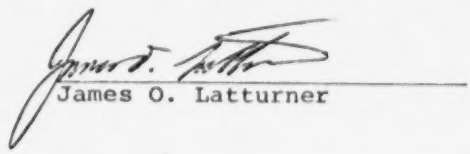
CERTIFICATE OF SERVICE

James O. Latturner, counsel of record herein, certifies that the foregoing Brief of Respondent Raquel Guerrero In Opposition To Petition For A Writ Of Certiorari To The Supreme Court Of Illinois and Motion For Leave To Proceed In Forma Pauperis were served upon

Michael Murray, Esq.
Chicago Board of Education
228 North LaSalle Street
Chicago, Illinois 60601

Ronald S. Cope, Esq.
Ancel, Glink, Diamond & Murphy, P.C.
180 North LaSalle Street
Suite 2600
Chicago, Illinois 60601

by U.S. Mail, postage prepaid, on March 24, 1981, before 5:00 p.m.



James O. Latturner

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